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LETTER DATED 1 OCTOBER 1996 FROM THE SECRETARY-GENERAL
TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit the attached report, which I received today from the High Representative for implementation of the Peace Agreement on Bosnia and Herzegovina.

I should be grateful if you would bring this information to the attention of the members of the Security Council.

(Signed) Boutros BOUTROS-GHALI

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Annex

Letter dated 29 September 1996 from the High Representative for implementation of the Peace Agreement on Bosnia and Herzegovina addressed to the Secretary-General

I have the honour to transmit to you my third report on my activities as High Representative for implementation of the Peace Agreement on Bosnia and Herzegovina. I would appreciate your making this report available to the Security Council.

With the certification by the Organization for Security and Cooperation in Europe (OSCE) of the results of the elections held on 14 September in accordance with Annex 3 of the Peace Agreement completed today, I hereby confirm that conditions have been met for decisions envisaged in paragraph 4 of the Security Council resolution 1022 (1995) to be taken. I request that the Security Council be duly notified.

(Signed) Carl BILDT

Appendix

Report of the High Representative for implementation of the Peace Agreement on Bosnia and Herzegovina to the Secretary-General of the United Nations

I. INTRODUCTION

1. Pursuant to Security Council resolution 1031 (1995) of 15 December 1995, which endorsed my appointment as High Representative to monitor the implementation of the Peace Agreement and mobilize and, as appropriate, give guidance to, and coordinate the activities of the civilian organizations and agencies involved in the implementation of the Peace Agreement on Bosnia and Herzegovina, I hereby submit my third report envisaged in Annex 10 of the Peace Agreement and the Conclusions of the London Peace Implementation Conference, held on 8 and 9 December 1995.

2. The present report covers developments in the areas listed below during the period from the beginning of July to the end of September 1996.

II. INSTITUTIONAL ASPECTS

Office of the High Representative

3. My headquarters in Sarajevo and the secretariat in Brussels have in the period under review continued to maintain operational coordination of civilian implementation activities inside Bosnia and Herzegovina and strategic-level contacts with the headquarters of the respective implementation organizations and agencies, closely following, to the extent possible, the various international gatherings dealing with the Bosnian peace implementation.

4. In addition to the regional branch office of the High Representative in Banja Luka, a representative of the Office of the High Representative (OHR) has started working in Tuzla, the second largest city in the territory of the Federation of Bosnia and Herzegovina, providing a valuable point of contact to the different official and political institutions in the important northern region of Bosnia and Herzegovina.

Working Groups of the International Conference on the Former Yugoslavia

5. The Working Group on National Minorities under Ambassador Martin Lutz continued to maintain regular contact with ethnic groups within the Federal Republic of Yugoslavia and Croatia, as well as with the Governments of the two countries.

6. My team will continue to encourage dialogue on Kosovo between the Government of the Federal Republic of Yugoslavia and the legitimate representatives of the Kosovar Albanians and will continue to suggest initiatives for reducing tension in that volatile area. In this context I

welcome the agreement on education in Kosovo signed on 1 September and look forward to its early implementation.

7. The Special Negotiator on State Succession Issues, Sir Arthur Watts, held a third round of discussions in Brussels with each of the five States in July. In the light of those and previous discussions, he put forward some ideas for progress to the parties in mid-July. Subsequently, a fourth round to discuss these ideas was held with all five States in Brussels from 5 to 12 September. Further discussions will take place in October.

Peace Implementation Council

8. The Steering Board of the Peace Implementation Council continued its monthly meetings at the level of political directors of the respective Foreign Ministries, each devoted to specific issues of the peace process. The discussion at the meeting in Brussels on 30 July centred on the preparation of elections in Bosnia and Herzegovina, and also examined the proposal for a two-year consolidation period. The next meeting, also held in Brussels, on 5 September, focused on the preparations for the post-election period and endorsed the High Representative's plan of action. Reports of the Working Groups of the International Conference on the Former Yugoslavia were also presented. A further meeting of the Steering Board, which will take place in my Office in Sarajevo on 2 October, will discuss progress in the setting up of common Bosnia and Herzegovina institutions, as well as preparations for municipal elections and results of the United Nations International Police Task Force Donor Conference, held at Dublin on 28 September.

9. In addition to the Steering Board sessions, other important international meetings in various formats, including that of countries that had witnessed the signing of the Peace Agreement, were taking place on a frequent basis. OHR was represented by myself or senior members of my staff. These meetings, some attended by delegations of Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia, contributed to promoting the political and other aspects of peace implementation. It is my understanding that further meetings of this nature will take place.

III. COORDINATION OF CIVILIAN IMPLEMENTATION

Overall coordination

10. Another meeting of the major implementation agencies was held at my office in Brussels on 15 July in order to assess the efforts undertaken by the different international agencies and organizations involved in the implementation of the Peace Agreement. A further meeting is planned for 8 October.

11. I have continued extensive consultations with representatives of Governments and organizations. On 31 July I met the United Nations Secretary-General in New York and on the same day reported to the members of the Security Council on the progress in the Bosnian peace implementation. I then met with the Security Council again on 26 September. I also had several meetings with

the Chairman-in-Office of the Organization for Security and Cooperation in Europe (OSCE). On 7 September I addressed an informal ministerial meeting of the European Union (EU).

12. In Sarajevo, I have been convening on a regular basis principals' meetings with the participation of the Commanders of the Implementation Force and the Ace Rapid Reaction Corps, the Special Representative of the United Nations Secretary-General and the Commissioner of the United Nations International Police Task Force, the Special Envoy of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the OSCE Head of Mission. These meetings have proved most helpful and effective in coordinating efforts of the major implementation structures on the ground, particularly in the run-up to elections.

Operational coordination

13. On the ground in Bosnia the Joint Interim Commission, composed of delegations led by the Prime Ministers of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and the Republika Srpska and chaired by me, in its last meeting at the beginning of July established a Subcommittee on Preparations for the Post-Election Period (JIC-PE), in which all three Governments are represented at ministerial level. Under my chairmanship the Subcommittee has been meeting regularly and has dealt with a wide range of issues concerning the political and constitutional implementation of the Peace Agreement in the period following the 14 September elections. At these meetings many issues have been clarified with the parties. That has contributed to shaping OHR post-election planning.

14. The Joint Civilian Commission (JCC) and the four regional Joint Civilian Commissions (North, West, South and Sarajevo) have been meeting periodically, chaired by my Principal Deputy, Ambassador Michael Steiner. The JCC sessions, where Ministers of the Governments of Bosnia and Herzegovina, and the Federation and the Republika Srpska have been sitting together with representatives of the most important international organizations, have dealt with a variety of practical issues concerning the civilian implementation, including return of refugees and displaced persons, property issues, election preparations and economic reconstruction. The regional JCCs, bringing together representatives of both entities' local authorities to discuss issues of particular interest to each region, have proved to be very useful for promoting confidence between them. All these meetings have contributed to easing possible tensions and establishing contacts between the major factors of the political and economic life of the country. Overall, the JCC framework, most helpful in facilitating inter-entity confidence-building, should be maintained for the next stage of peace implementation.

15. The Joint Commissions established under the relevant Annexes of the Peace Agreement continued their work in their respective fields.

16. Activities of the Provisional Election Commission (Annex 3), chaired by OSCE, are referred to in a subsequent section of the present report.

17. The two constituent parts of the Commission on Human Rights (Annex 6) - the Human Rights Chamber and the Ombudsperson - have been working effectively since their establishment in late March. The Ombudsperson, Gret Heller, has received more than 300 complaints, 10 of which have been referred to the Human Rights Chamber. An office of the Ombudsperson was opened in Banja Luka in July. The Human Rights Chamber has been developing its rules of procedure, while at the same time beginning consideration of cases. While the efforts of the Commission on Human Rights during this start-up period are commendable, much remains to be done in establishing the Commission as an integral part of the legal framework of Bosnia and Herzegovina. Many if not most victims of human rights abuses in Bosnia and Herzegovina are unaware of the new institutions that were created under the Peace Agreement; others who have suffered abuses remain afraid to complain or sceptical as to whether the legal system will consider their claims fairly. At the same time, the authorities of the country have not yet put in place the necessary framework to ensure that the institutions of the Commission are supported in their work and that their decisions are implemented promptly and effectively. The Commission institutions are, at this point, funded by international donations, despite the requirement under the Peace Agreement that expenses of the Commission be borne by Bosnia and Herzegovina.

18. The Commission for Real Property Claims of Displaced Persons and Refugees (Annex 7), mandated to restore a fair and just system of property rights in Bosnia and Herzegovina, has been meeting regularly to analyse complex property laws and to establish principles for its future decisions. On 4 September a Headquarters Agreement was signed, which gives the Commission freedom from influence by any authority in Bosnia and Herzegovina when performing its duties in the country. The Commission has also begun its enormous operational task. Hundreds of thousands of claims are expected to be received from people both within the country and abroad. Coordinated from various field offices, mobile data-collection teams will travel throughout the country to meet people and give them the possibility to submit their claim. Similar systems will operate in countries abroad. During its initial period of operation, the Commission will give priority to the claims concerning the return of real property in its present state and will disregard laws, regulations and rules of any date if they are inconsistent with international human rights standards relating to property.

19. The Commission to Preserve National Monuments (Annex 8), coordinated by the United Nations Educational, Scientific and Cultural Organization (UNESCO), continued discussions on defining a universally acceptable nomination form for immovable properties and working methods of the Commission. Another issue under discussion was the establishment of the Scientific Secretariat. A new session is planned for mid-October.

20. The Commission on Public Corporations (Annex 9), chaired by the European Bank for Reconstruction and Development (EBRD), has held five sessions and set up two working groups, on electricity and railways. The task of the working groups is to identify problems that ought to be solved within the framework of a public commission. The public commission in question would be the regulating agency for respective companies from both entities addressing issues such as tariffs and norms.

Elections

21. Elections at the State, entity and cantonal levels were held on 14 September. To achieve that goal, a very substantial collective effort had been required of the international community in the preceding months. The successful conduct of the municipal elections in Mostar on 30 June had given an important psychological boost to the general elections. The Provisional Election Commission (PEC) continued its work on the election rules and on the practical aspects of the preparations. In addition, it decided on 19 July that any political party that maintained in a party position or function a person who was under indictment by the International Tribunal for the Former Yugoslavia and who had failed to comply with an order to appear before the Tribunal, would be deemed ineligible to participate in the elections. While this measure was of general application, it also represented a further step in the efforts of the international community to ensure that Mr. Radovan Karadžić ceased to exercise public office and to influence the election process. Also, with my full support, the PEC on 6 August adopted a decision authorizing its Chairman to make available the necessary facilities for the functioning of the Open Broadcast Network. An Elections Appeals Subcommission was established to ensure compliance with the electoral rules and regulations.

22. The 14 September elections were held in a calm, orderly and dignified manner. This was as a result of the cooperative attitude of the parties, bolstered by the major planning effort on the part of all of the key international agencies. These included OSCE, which played the leading role, the United Nations Mission in Bosnia and Herzegovina (UNMIBH), UNHCR and the substantial efforts of the Implementation Force (IFOR). My Office coordinated these efforts closely. Apart from a small number of isolated incidents, election day was not marred by acts of violence. Similarly, there were no serious restrictions to freedom of movement. Fewer than expected of those citizens who had been displaced from their homes in the territory of the Republika Srpska availed themselves of the arrangements that had been put in place to enable them to vote in person where they had lived in 1991.

23. The conduct of the elections was monitored by a very large number of international monitors coordinated by Eduard van Thijn in accordance with a mandate from the Chairman-in-Office of OSCE. Mr. van Thijn issued a preliminary statement on 16 September as well as a final statement on 24 September summing up the observations and judgements of the international monitors. The statements of the Coordinator for International Monitoring are enclosed herewith (see attachments I and II).

24. Election results were certified by the Provisional Election Commissions on 29 September after the Elections Appeal Subcommission had also dealt with a large number of appeals. After careful consideration, none of these was seen as calling into question the validity of the elections and the results as certified by the PEC. On 30 September, the Chairman-in-Office of OSCE informed me of the position with regard to the certification of the election results by the PEC and also brought to my attention the letter which he had received from the Chairman of the PEC on this matter.

25. The term of the members of the Presidency of Bosnia and Herzegovina had been defined in the Peace Agreement as being two years for the first elections. The parties agreed that the terms of office of all those elected in the first elections should be harmonized and fixed at the same duration. It was left to the parties to determine how to implement the new regulations before the September elections, as voters should be entitled to know the duration of the terms of office for which they would elect candidates. On the eve of the elections both the Parliamentary Assembly of Bosnia and Herzegovina and that of the Federation of Bosnia and Herzegovina adopted the necessary measures. Although the item was included in the agenda of the National Assembly of the Republika Srpska, no decision was taken. In order to have the matter regulated should the parties not be able to adopt such rules in time before the elections, the PEC decided to include the necessary provision in its own rules and regulations, and on 13 September decided that the term of office for all those to be elected on 14 September would be two years. It also decided that the terms of Municipal Councillors, to be elected in the first elections, would expire on the same day as the terms of all those elected on 14 September.

26. Elections were not held for municipal governing authorities. The evidence of manipulation of the voter registration option enabling refugees to vote where they intend to live acted as a catalyst for the decision of the Chairman of the PEC, on 27 August, to postpone the municipal elections. These elections were not essential to the task of implementing the common institutions, but as municipal governing bodies are an important element of Bosnian society, elections should be held as soon as feasible. To that end, the parties have agreed to an extension of the mandate of the PEC until the end of 1996 and that OSCE will be engaged in the supervision of the elections. Substantial resources from the international community, both civilian and military, will be required so that the municipal elections can be organized and conducted in conditions of security.

Post-election transition

27. The successful conduct of elections has marked the conclusion of the third phase of peace implementation. We are now entering the fourth, and most sensitive, phase, which includes primarily the setting up of common institutions of Bosnia and Herzegovina and will eventually bring us to the conclusion of the year-long mandates of the implementation agencies. It is during this phase that the future destiny of Bosnia and Herzegovina will be defined - either it survives as a single State consisting of two entities, or goes down the road of partition with dire consequences for the whole region.

28. Using the final authority of the High Representative in theatre in civilian implementation of the Peace Agreement, as stipulated in Annex 10 of the Peace Agreement and further described in the Geneva Agreed Measures of 14 August, immediately after the preliminary election results were announced, I publicly announced on 19 September transitional arrangements designed to stimulate the formation of the common institutions and to avoid the creation of a power vacuum as well as any ambiguity concerning the continuity of the State of Bosnia and Herzegovina. Under these arrangements, from the moment the newly elected Presidency of Bosnia and Herzegovina assumes office upon the certification of election results, all existing governmental bodies within the territory of

Bosnia and Herzegovina will perform their functions on a caretaker basis until they are replaced by new bodies.

29. Pending the proclamation of the final results of the voting, I have already had meetings with the members of the newly elected Presidency. With the results now certified, it is my intention to have the first official meeting of the Presidency convened as soon as possible. I will then help convene the inaugural session of the House of Representatives, to be held jointly with the Presidency.

30. In order to facilitate the proper initial functioning of the common institutions, my Office, in collaboration with a number of international organizations, is preparing a quick start package comprising the minimal legislative basis for the Government of Bosnia and Herzegovina to operate. It will include, inter alia, laws covering foreign economic relations, citizenship and passport regulations, setting up of the Central Bank of Bosnia and Herzegovina, duration of the parliamentary mandate, immunity and Presidency succession, as well as air traffic regulations and a draft budget for 1997.

31. The process of adapting the constitutions of the Federation of Bosnia and Herzegovina and the Republika Srpska to the provisions of the Constitution of Bosnia and Herzegovina has now almost been completed. The Venice Commission of the Council of Europe has been studying the constitutional amendments made by the entities so far and recommended the further steps that were necessary. At my request, further consultations between members of the Venice Commission and representatives of both entities took place in Sarajevo at the end of August and proposals for amendments were made in order to enable the entities to adopt the necessary amendments before the September elections.

32. Although the Federation Assembly has not so far been able to adopt the proposals of the experts, the necessary changes must be made as soon as the new Federation Assembly is convened. Shortly before the September elections the Republika Srpska Assembly adopted a considerable number of constitutional amendments on the basis of the recommendations made by the Venice Commission. Although most of the provisions incompatible with the Constitution of Bosnia and Herzegovina have now been deleted or amended, there are still a few changes to be made in cases where the Republika Srpska Assembly did not follow the recommendations of the experts. If the Federation and Republika Srpska Assemblies do not implement the remaining proposals of the Venice Commission, the Constitutional Court of Bosnia and Herzegovina will have to decide whether the constitutional provisions in question are consistent with the Constitution of Bosnia and Herzegovina.

Federation issues

33. A fully functioning Federation of Bosnia and Herzegovina remains one of the cornerstones for the successful implementation of the General Framework Agreement. For this reason OHR efforts, in conjunction with efforts of some Governments, have continued with the aim of supporting the establishment of functioning Federation structures.

34. In general, these efforts have been hampered by the different procedural approaches of the Federation partners. Concerning the dissolution of existing

administrative arrangements in the territory under the control of the Croatian Defence Council (HVO), namely, the "Croat Republic of Herzeg-Bosna", and parallel establishment of Federation structures, and merging of institutions of the former Republic of Bosnia and Herzegovina into Federation structures. In a number of substantial policy areas, this difference in approach has led to a stalemate in the establishment of Federation structures. An area of special concern for the OHR is the facilitation of an agreement between the Federation partners concerning the future organizational structure of Sarajevo.

35. Progress in implementing the Federation clearly exists but has been regrettably slow: the Sarajevo Agreement of 30 March 1996 resulted in the establishment to a unified federal customs and financial system. The Petersberg Agreement of 25 April was a decisive step towards the establishment of new, democratic police structures in the Federation. The Blair House Agreement of 14 May paved the way for the adoption of a Federation Defence Law, envisaging the unification of existing defence structures inside the Federation. The Geneva Agreed Measures of 14 August further increased international pressure to dissolve "Herzeg-Bosna" and to finalize the establishment of working structures within the Federation.

36. The Federation partners recognize that a self-sustaining Federation is an indispensable precondition for the successful implementation of the Peace Agreement. Nevertheless, much groundwork remains to be done in order to create truly stable and democratic Federation structures. OHR efforts to facilitate further implementation of these structures will continue. They require, however, active and increased commitment and cooperation of the political leaders of the Federation partners.

The Inter-Entity Boundary Line and Brčko arbitration

37. Building on the substantial progress achieved earlier in adjusting the Inter-Entity Boundary Line (IEBL), on 17 July the parties signed a formal agreement resolving most of the practical issues that had been outstanding at the time of the signing of the Peace Agreement. Discussions continue under IFOR auspices on the last remaining sections of the IEBL and in particular on the sensitive Sarajevo district of Dobrinja.

38. Having failed to agree by 14 July on the candidature of the third member of the Brčko arbitration tribunal, the parties later accepted, however, the appointment by the President of the International Court of Justice of Robert Owen, who has since taken the Chair of the Arbitration Tribunal. There has been no substantial progress in the arbitration process, however, owing to the existing difference of opinion between the parties on the object of the arbitration.

39. I continue to believe that the sooner the problem is tackled by the parties the better chance there is for a mutually acceptable negotiated solution, which would take into account the legitimate interests of all parties and would best serve the people of Brčko.

Media

40. My Office has closely monitored the media from both entities in the pre-election period. There has been some improvement in media access, with somewhat more even-handed news reporting. However, most Republika Srpska media have continued their unwavering support of the Serbian Democratic Party (SDS), up to the exclusion of other parties. In the part of the Federation under the control of the HVO the media have been unremittingly biased towards the ruling HDZ party, and there has also been a tendency on the part of Bosnia and Herzegovina television to favour the governing Party of Democratic Action (SDA).

41. The OHR has played its part in advising and sometimes warning about inadequacies and abuses in election coverage through the OSCE Media Experts Commission (MEC). Some cases have been raised and acted upon by the MEC. In the case of some particularly flagrant abuses, I have raised these directly with political authorities.

42. The Open Broadcast Network (OBN), in which the OHR played a leading role, began operation on 7 September, broadcasting news, entertainment and election-related material. The purpose of OBN, funded by a wide variety of international donors and currently operating under the authority of the PEC in the absence of relevant legislation, is to create a strong independent television sector in Bosnia, building on existing stations and drawing on talents from both entities. The OBN signal can now be picked up in all major population centres in the country.

Return of refugees and displaced persons

43. More than half of the population of Bosnia and Herzegovina were displaced as an aim and a result of the war. More than 1 million refugees are still living outside the country and close to 1 million displaced persons remain forced to live away from their homes within the confines of Bosnia and Herzegovina. To implement the right to return to homes of origin, Annex 7 of the General Framework Agreement calls upon the parties to reverse the goals of a war characterized by campaigns of ethnic cleansing. Thus, this element of peace implementation has to be addressed by strenuous efforts.

44. Ongoing efforts in this area are being hampered by a segregationist reality on the ground. Arbitrary practices disrupting many fields relevant to a civic society, acute deficits in the rule of law, the prevailing fear of the vast majority of citizens to move out of the perceived protection in areas of own ethnic dominance, in addition to the lack of housing space and employment opportunities, still prevent return. This does not only stand against return across the IEBL, but also across the ethnic division lines within the territory of the Federation. In violation of the obligation of the parties under the Peace Agreement to create political, social and economic conditions for return, the continued blocking even of the re-establishment of telecommunications, railway and commercial bus links across the IEBL, constitutes a major deterrent to the exercise of the right to return and to economic rehabilitation.

45. The summer months have seen the return of numerous refugees and displaced persons to areas of own ethnic dominance, boosting the total number of returnees

since the signing of the Dayton Agreement to an estimated 200,000. Organized repatriation made up for only a small proportion of such return movements, which are in general individual, voluntary and spontaneous. On a small scale, so-called "minority return" is also happening, albeit to more tolerant communities, overwhelmingly in the Federation, or in the course of housing reconstruction programmes in the Zone of Separation. On the other hand, the social costs of perpetuated displacement are becoming more visible in neighbourhoods disrupted by the advent of displaced persons from other social backgrounds.

46. UNHCR, as the operational lead agency for the implementation of Annex 7, has concentrated its efforts on targeted housing reconstruction and on confidence-building measures. My Office has supported these steps, in particular within the instruments of the JCC framework. The coming months will require sustained, and even increased, international support to the housing reconstruction programmes, as well as innovative steps to promote so-called minority return, currently under consideration. The task to make return to homes of origin a reality will require a comprehensive and interdisciplinary approach within the framework of further stabilization efforts. Additional challenges, resulting from unwillingness on the part of displaced persons and refugees to return to areas in which they would constitute a minority, will also have to be addressed.

Missing persons; mass graves

47. National authorities working with representatives of the international community have proceeded with their efforts to assist the families of the missing to determine the fate of the missing and, when necessary, to retrieve and identify their mortal remains. Under the chairmanship of the International Committee of the Red Cross (ICRC), the Working Group on Missing Persons has brought representatives of the families of the missing into direct contact with the accountable authorities, thereby ensuring that the concerns of the families are heard and answers given to their requests. This is a difficult and lengthy process that is, unfortunately, proceeding slowly.

48. The Expert Group on Exhumation and Missing Persons, chaired by my Office, has been assisting the parties in their efforts to carry out exhumations and identification of mortal remains. As a result, the parties have developed a priority list of sites to be excavated. Two of the three sites of highest priority have been completely excavated and work is under way on the third site. The parties are now in the process of developing a second list of priority sites. An ante mortem database is being established as a cooperative project of the United Nations Expert on Missing Persons, ICRC, Physicians for Human Rights and the Boltzman Institute. The efforts of the parties and the international community continue, however, to be hampered by insufficient resources. The United Nations Expert on Missing Persons is continuing his fund-raising campaign to address such critical needs as demining assistance and forensic and scientific supplies and equipment.

Human rights

49. Respect for human rights and the rule of law are critical to the peace implementation process. Despite commitments to uphold the highest standards of human rights protections, all parties have consistently failed to honour this obligation. Since my last report (see S/1996/542), the human rights situation has deteriorated in several important areas. Particularly troubling has been the increase in number and extent of human rights violations committed by police and other persons in positions of authority, as well as a substantial number of violations in the context of elections, motivated by political belief rather than ethnicity.

50. At the same time, authorities have failed to take concrete steps to rectify conditions that threaten the goal of a multi-ethnic society. Harassment of ethnic minorities, including forced evictions and intimidation, continues and responsible authorities have failed to act decisively to address this problem, as evidenced, for example, by the ongoing threats to minority residents of the Sarajevo suburbs. Discrimination against ethnic minorities in the field of employment, education and access to government services is widespread, supporting the trend towards ethnic separation.

51. Crimes against the person, especially physical mistreatment of persons by the police, are on the rise. Since my last report, all too common incidents of beatings in custody have been joined by two murders, one involving apparent torture by police officials and the other brought by beating in police custody. Although increasing numbers of persons throughout Bosnia and Herzegovina have exercised their right to freedom of movement, many do so at the risk of harassment, arbitrary detention and mistreatment by local authorities near the IEBL. In the context of the elections, these problems took on new dimensions. Candidates and supporters of opposition political parties were subjected to harassment, intimidation and violent attacks in both entities. Local authorities, including police, failed to counteract these threats and sometimes were in fact the perpetrators of the abuses.

52. In the area of legal reform, neither entity has fully complied with the requirements of the Peace Agreement. While some progress has been made in bringing the Federation and Bosnia and Herzegovina amnesty laws into compliance with the Peace Agreement, initiatives undertaken by my Office and others within the international community concerning shortcomings in the Republika Srpska law on that subject have not yet yielded satisfactory results.

53. Of particular concern is the failure by the parties to address property statutes, which present a significant barrier to return of refugees and displaced persons. The parties have so far failed to fulfil their obligation to suspend enforcement of laws that have been determined to be in non-compliance with the Peace Agreement and to introduce legislative changes necessary to allow refugee return and protect property rights. Failure to take immediate action to address this fundamental issue may solidify the results of ethnic cleansing.

54. The parties must take immediate and concrete steps to implement the full range of rights afforded to all persons under the Constitution of Bosnia and Herzegovina. In particular, the parties must investigate and prosecute persons

responsible for committing human rights violations, particularly in cases with tacit or active involvement of local police or other officials. In addition, the parties must take concrete steps to eliminate discrimination against ethnic minorities and returning refugees and displaced persons, which is a necessary component in creating a functioning multi-ethnic society.

55. In this respect Sarajevo remains an object of special concern. Through the Joint Civilian Commission for Sarajevo (JCCS), my Office continued pursuing the goal of ensuring that the city retains its multicultural and multi-ethnic character. This requires improving conditions of security and access to housing and employment for all those who live in the region, including the remaining Serb population, and encouraging the return of those who left. We have initiated community dialogues to improve cooperation between groups in areas where security concerns have been especially acute. We have also initiated meetings between mayors from both entities. Local authorities agreed at the latest session of the JCCS, held on 27 August, to address unresolved problems regarding integration of Serb teachers, students and health workers into the Federation system, as well as to redouble crime prevention efforts. In addition, my Office has helped mediate efforts to reach an agreement on a new constitution for the Sarajevo canton, which, when implemented, will ensure a full measure of political participation by all groups in the community, including their representation in legislative and administrative bodies.

56. Overall, my Office, in cooperation with local actors and the international community, continues to work continuously to strengthen the institutional responses for redress of human rights violations. Ultimately, however, an improvement in the human rights climate is the responsibility of the authorities and the citizens of Bosnia and Herzegovina. In this, the political leadership is also obliged to support and foster the development of both the formal human rights institutions that were established by the Peace Agreement and Federation Constitutions, and the informal non-governmental structures that are an integral part of the development of civil society.

Detention issues and cooperation with the International Tribunal for the Former Yugoslavia

57. The effort by the international community to secure the release of persons detained in relation to the conflict as required under Annex 1A remains incomplete. Although all ICRC-registered prisoners have been released, there is evidence that the parties continue to detain an unknown number of persons arrested prior to 19 December 1995 who have not been registered by ICRC. Despite sustained pressure by my office, the parties have failed to implement the "rules of the road" agreed to in Rome on 18 February, and arrests of persons alleged by the parties to have committed war crimes continue to occur, although at a reduced level.

58. In addition, the war-time practice of exchange of detained persons continues. The risk of arrest, which is compounded by the lack of clarity on who is being sought for war crimes, substantially impedes freedom of movement.

59. Neither entity has fully complied with its obligation to cooperate with the International Tribunal. The authorities of Republika Srpska have made no effort

to fulfil their obligations to arrest persons indicted by the Tribunal as required by the Peace Agreement. While authorities of the Federation of Bosnia and Herzegovina have complied by arresting indicted persons on the territory controlled by the Bosnian Army, persons indicted by the Tribunal who reside in or visit areas under the control of the HVO have not been arrested and transferred to custody of the Tribunal as required under Security Council resolution 827 (1993).

60. Following the handing over by Radovan Karadžić of his functions of President of the Republika Srpska on 30 June, further international pressure led to his resignation from the post of Chairman of the Serb Democratic Party and effective withdrawal from public view. However, the issue of his appearance before the Tribunal in The Hague to defend himself remains open.

61. Cooperation by the Republika Srpska with the International Tribunal on more technical issues has in the meantime improved. Its authorities have agreed to serve arrest warrants on indicted persons within their jurisdiction, and exhumations by the Tribunal in the Republika Srpska have proceeded without hindrance. A Tribunal office has opened in Belgrade. While Federation authorities have generally cooperated with the Tribunal, within the last few weeks there have been troubling exceptions. Trials of suspected war criminals began in Federation courts without proper notification of the Tribunal; in one instance, a conviction occurred without the Tribunal having had any opportunity to review the case.

Economic reconstruction

62. Economic revival and long-term rebuilding of the economy remain major preconditions for peace and economic stability. Much work has already been done to restore economic infrastructure after the ravages of war and to provide a sound basis for a return to prosperity. I have continued my efforts in this task with major economic implementation agencies, namely, the World Bank, the European Commission, EBRD, the International Monetary Fund (IMF) and the International Management Group. Regular meetings on a weekly basis have been held in Sarajevo with these agencies to discuss and coordinate plans and to establish priorities.

63. Thirteen sectoral task forces have been established jointly by the European Commission and the World Bank to coordinate the donor efforts in respective fields. The task forces bring together the most important donors as well as the representatives of the beneficiaries to discuss project implementation, to identify financing gaps and to discuss sectoral development. In order to increase the efficiency of the task forces, measures have now been taken to restructure the task force format to some extent. The restructured task forces will address issues concerning policy development and increase project implementation monitoring. The task forces report to the OHR.

64. Project implementation has picked up during the last three months and relevant implementation structures have been set up. However, this mainly applies to the Federation of Bosnia and Herzegovina as the Republika Srpska has to a certain extent been overlooked by the international community and has itself tended to continue its somewhat reluctant attitude towards cooperation

with the international donor community. Some positive development has, however, taken place in the Republika Srpska as the respective authorities agreed in the summer to sign three subsidiary loan agreements with the State of Bosnia and Herzegovina on World Bank projects, thus opening the door for participation in these programmes.

65. According to the latest statistics, firm donor commitments for 1996 add up to US$ 1,520 million. The total amount under different stages of implementation is $880 million, of which $558 million has been disbursed. The Federation territory has received 82 per cent of the total assistance efforts under implementation, while 17 per cent represent activities of an inter-entity nature. Only 1 per cent of the total activities are under implementation in the Republika Srpska. Even in the Federation the assistance efforts have so far concentrated on few areas, where only two cantons and Sarajevo have received two thirds of the total. In the future this tendency must be reversed and a more balanced approach must be obtained both concerning the Federation territory and the Republika Srpska, considering the degree of damage, needs and political conditionality.

66. Within the framework of reforms that facilitate economic recovery and transition of Bosnia and Herzegovina to a market economy, I have stressed certain priority sectors such as infrastructure, employment generation and restart of production. Some positive examples can be mentioned: rehabilitation of rail tracks between Sarajevo and Ploce, rehabilitation of three principal power plants and four main transmission lines, and picking up of small-scale commerce. However, the speed of implementation has very often been slower than expected and serious financing gaps still exist in all priority areas. I strongly encourage the donor community to make good on pledges announced and to accelerate procurement activity in order to take full advantage of the remaining construction season of 1996. I would also like to point out that regrettably too often political constraints on the ground have either slowed down or totally hampered the speed of implementation, and subsequently the lack of basic infrastructure, for instance of an adequate telecommunications system, effectively prevents economic cooperation from taking place between the entities. I have made it very clear that these tendencies cannot continue.

67. Preparations for the next stage of recovery have been started. The major tasks to be addressed in the post-election phase of Bosnia and Herzegovina's economic development include, inter alia, rapid installation of State institutions, implementation of sound macroeconomic policies, adoption of a legislative framework conducive to the transition to a market economy and continuing the reconstruction efforts. The success of these efforts depends on close cooperation among the major international implementation agencies.

Mine clearance

68. Progress with the physical removal of mines remains slow, but clearance of some roads, airports, war graves and resettlement areas has been completed and more is under way. The first World Bank pilot contracts have been placed and the Republika Srpska has belatedly accepted World Bank credits.

69. Since I last reported (see S/1996/542), considerable progress has been made with organization and training. The United Nations Mine Action Centre in Sarajevo has been recruiting more international and local staff, a regional office has been established in Banja Luka, the national electronic minefield database has been installed, maps have been issued and mine-awareness training continues. To date, some 60 mine survey specialists have been trained, Norwegian Peoples Aid has trained over 120 mine clearers and EU has placed contracts for the training of a total of 200 mine survey and explosive ordnance disposal specialists. The expanded United States Government programme of training and mine clearing is under way.

70. However, much remains to be done. Lack of freedom of movement continues to restrict training and local involvement in management. Funding falls short of that required and the Federation authorities' insistence on levying some 50 per cent tax and social security charges, which they are unable to audit, on the salaries of local staff has delayed the finalization of some projects. There is also concern that after the winter period there will be a lack of mine-clearing capacity to deal with the task in 1997.

71. In order to address these problems, the Mine Clearance Task Force under the Chairmanship of the Deputy Special Representative of the United Nations Secretary-General has been restructured. This group will now oversee the activity of the United Nations Mine Action Centre and establish policy, determine priorities and seek funding for mine clearing. This Task Force will subsume the Mine Clearance Policy Group activity. It is hoped that the newly elected Government will be more ready to cooperate than has been the case to date. This will be essential if the United Nations proposal to train and equip up to 2,000 mine clearers before April 1997, and possibly employ this work force during the 1997 mine clearing season, is to become reality.

Regional stabilization

72. Implementation of the Agreement on Subregional Arms Control pursuant to Article 4 of Annex 1B of the Peace Agreement, which was signed in Florence on 14 June, has so far gone according to schedule. The baseline validation period inspections began on 18 August. To date, 25 inspections have been conducted out of the total of 96 to be carried out before the end of the validation period on 31 October. OSCE has reported some difficulties with regard to the definition of points of entry between the parties on the territory of Bosnia and Herzegovina, which have somewhat disrupted initial planning. Otherwise, the inspections have gone on unhindered.

73. The parties have notified their reduction liabilities and are expected to start their reductions of stockpiles of armaments covered by the above Agreement by mid-October. OSCE is providing assistance to the parties in the implementation of their obligations.

74. The OSCE Special Representative, who is to assist the parties by helping organize and conduct negotiations on regional arms control envisaged in Article 5 of Annex 1B, is expected to be appointed by the time of the OSCE summit in early December, thus opening the way for substantial negotiations between the Parties concerned.

IV. COOPERATION WITH THE IMPLEMENTATION FORCE

75. Relations with the North Atlantic Treaty Organization (NATO)-led Implementation Force (IFOR) have continued to be most constructive. During this phase, military support to civilian agencies has increased. This contribution has been vital to progress in most aspects of civilian activity and the support to the OSCE election management has been essential and extensive. Without this support the elections could not have taken place. Procedures for the emergency protection of civilians have been refined.

76. At the strategic level, I have maintained close contact with the NATO Secretary-General, Mr. Javier Solana, and the Supreme Allied Commander in Europe, General George Joulwan. I am currently discussing support during the critical post-election phase and have written to Mr. Solana on this subject.

77. In theatre, the change of IFOR commander in July was executed without impact on civilian implementation. I wish to record my sincere appreciation for the excellent support I received from Admiral Leighton Smith during a challenging time for both of us. I am pleased that this level of support has been maintained by Admiral Joseph Lopez during his time in command.

78. The delay to the municipal elections will place additional, unexpected demands on IFOR. We are working together closely to establish what support is required and possible.

V. LOOKING FORWARD

79. As I have stressed in my previous two reports, the fourth phase of peace implementation this year after the elections is the most difficult and the most decisive for the future. It is now that we have the possibility of starting to bring the country back together again.

80. The election campaigns of the different political parties have confirmed how all of them are continuing to pursue their original long-term national aims, thus underlining the fragility of the peace process in the months and years ahead. Nationalist issues - both offensive and defensive - were at the forefront of the campaigns of the major parties, while the pressing economic and social issues of the country were sorely neglected.

81. The election results have demonstrated once more the dominant role of the nationalist parties in all of the three ethnic communities in the country, thus repeating the experience of the November 1990 elections. Although conditions for these elections, especially concerning the media, were very far from perfect, I believe that this election result does represent the mood of the different parts of the country. These were elections dominated much more by fears coming out of the past than by hopes that should be generated by the future.

82. The elections were the prerequisite for the full implementation of the new Constitution, primarily the establishment of common institutions. The future of the peace process will be determined by the success or failure in the setting up

of these elaborate power-sharing arrangements. It is only by creating structures with which all of the country will be able to identify that the long-term viability and stability of the country can be secured.

83. As I have noted in previous reports, the forces of ethnic separation are still stronger than the forces of ethnic reintegration. Although movements across the Inter-Entity Boundary Line are increasing and we are trying to facilitate the development of a network of links between the entities in all spheres of social, economic and political life, true signs of ethnic reconciliation are still sorely missing. Bosnia and Herzegovina is still a country divided into three to a very large extent separate ethnic communities.

84. The power-sharing arrangements must be fair to each and every one at the same time as they must ensure the effective governance of the country. The Constitution calls for a united, but not a unitary country, based on a unique degree of decentralization of powers of the two entities - the Federation and the Republika Srpska. The common institutions of the country require a high degree of consensus in order to be able to work efficiently.

85. The constitutional implementation issues will dominate the coming weeks. The Presidency has started at its first meeting to discuss the setting up of the new Council of Ministers, with the aim of completing this before 30 October. It will take at least as long to get both Chambers of the Parliamentary Assembly ready to start to address all the issues that must be urgently addressed.

86. My Office is preparing a package of interim and immediate measures we believe the common institutions must start to address as soon as they are able to commence operation. This is also a time when it will be possible to embark on discussions with the new common institutions on reconstruction assistance for the coming years, thus paving the way for the holding of a new donors' conference in the beginning of 1997.

87. The coming months must also see a resolution of the issue of the IEBL in the Brčko area. Although the Arbitration Tribunal has been set up, the political divisions over the issue have severely hampered its work. I have encouraged the President of the Tribunal to move forward towards a decision by the Tribunal during the autumn in order to make implementation possible before the arrival of winter in the area. Such a decision must be based on the principles of the Peace Agreement and take into account the fundamental geostrategic interests of the parties in the area.

88. The Provisional Election Commission has indicated that municipal elections might be held during the month of November. These will be important in determining the structure of local power across the country. IFOR has declared its readiness to give these elections its security support in the same way as for the 14 September elections. A final decision on the timing of the municipal elections is pending.

89. During the coming weeks the discussion on the future international support that must be given to Bosnia and Herzegovina is bound to intensify. From my perspective, I would like to stress the need for as early and as firm decisions

on these issues as possible, since this would contribute to the political processes now under way in the country as well as in the two entities.

90. An agreement has been secured on having new national, entity, cantonal and local elections in all of Bosnia and Herzegovina in September 1998 and in my view we must look at the period between now and then as a consolidation period for the peace process, during which we must be prepared to assist the common institutions of the country in gradually carrying the process forward. If the consolidation period is successful, the September 1998 elections should be dominated more by hopes for the future than by fears from the past.

91. I believe that the goals of the ambitious Peace Agreement can gradually be achieved, but I am firmly convinced that this will not happened without a continued commitment of support and help from the international community during these two years. A security presence is an unavoidable part of this commitment, since only this can take away the fear of a conflict restarting that otherwise will seriously impair the political, economic and social process of healing and reconciliation.

92. The war crimes issue will become increasingly important during the coming period, since any true and lasting reconciliation must be based on bringing to justice those responsible for the atrocities of the war.

93. A consolidation period for Bosnia and Herzegovina during the next two years cannot be seen in isolation from developments in the region as a whole. There is a very close interaction between its different parts, and it is my conviction that only a process of integration and cooperation in the region as a whole can create an environment in which a stable and united Bosnia and Herzegovina can develop on its own.

94. Although the normalization of relations between the Federal Republic of Yugoslavia and Croatia represents a most important positive step, other issues remain to be solved. The reintegration of Eastern Slavonia into Croatia must not cause a new wave of refugees, at the same time as there is a need for more rapid progress on refugee return to the Krajina areas of Croatia. Failure to address these issues constructively could have a destabilizing effect also on Bosnia.

95. The peace process in Bosnia has now entered its most critical phase. What is at stake during the weeks and months ahead is not the question of war and peace in the short term, but the question of continued partition or gradual reintegration. But without a gradual reintegration of the country, the threat of a renewed conflict will always be there and the peace process will remain extremely fragile.

ATTACHMENT I

Preliminary statement dated 16 September 1996 by the Coordinator for International Monitoring on the elections in Bosnia and Herzegovina

1. In accordance with Article III.2 (e) of Annex 3 of the General Framework Agreement for Peace signed at Dayton and based on the decisions taken by the Ministerial Council of the Organization for Security and Cooperation in Europe (OSCE) in Budapest on 7 and 8 December 1995, the Chairman-in-Office of OSCE, the Foreign Minister of Switzerland, Flavio Cotti, on 7 March 1996 appointed Eduard van Thijn of the Netherlands as the Coordinator for International Monitoring (CIM) of the elections in Bosnia and Herzegovina. The mandate given to Mr. van Thijn asked for an assessment of the entire election cycle.

2. The aim of the CIM's mission has been to arrive at a conclusion as to whether the election process has fulfilled the election-related commitments of the OSCE Copenhagen Document 1990 (which were annexed to the Dayton Peace Accord) and the legal framework and regulations established to govern the election process in accordance with the Dayton Peace Accord.

3. Assisting the CIM in monitoring the election process has been a small staff that arrived in Sarajevo from late April onwards and 25 long-term observers who were deployed in July.

4. Almost 1,000 international observers provided a broad presence throughout the country on election day. Sixty-five of them monitored the out-of-country voting in 23 countries. Short-term observers were contributed by 24 OSCE participating States, 2 partner States for cooperation with OSCE, 2 non-OSCE participating States, intergovernmental organizations, non-governmental organizations and local embassies. They were deployed in teams of two and recorded their findings from nearly 3,000 polling stations. This is a substantial and wide-ranging sample, which enables the CIM to make a comprehensive report on the election day proceedings. All international observers were permitted to undertake their duties with the assistance of the election authorities at all levels.

5. The detailed results of the observation are tabulated in the statistical report produced by the CIM Statistical Unit.

I. CONTEXT OF THE ELECTION

6. The CIM recognizes the unique complexity of this election in a post-war environment, in which the election process is intertwined with a conflict-resolution process. It is therefore difficult to assess the election process in Bosnia and Herzegovina, after four years of war, in accordance with the term 'free and fair' as it is usually understood.

7. The criteria as expressed in the OSCE Copenhagen commitments (attached as an enclosure) and the Dayton Peace Agreement remain the only relevant yardstick.

Yet the election must also be considered in a conflict-solving capacity. Whether the election leads to integration or disintegration will only become clear as immediate events unfold.

8. Within the context of the election in Bosnia and Herzegovina, several of the OSCE Copenhagen commitments were only partially met. In particular, commitment 7.6, which ensures the right to establish in full freedom political parties and provide them with the necessary legal guarantee to enable them to compete with each other on a basis of equal treatment before the law and by the authorities, commitment 7.7, which ensures political campaigning to be conducted in a fair and free atmosphere, and commitment 7.8, which ensures unimpeded access to the media, were not fully met.

9. The Dayton Peace Agreement outlines the following five basic conditions, which were only fulfilled to varying degrees: a politically neutral environment, the right to vote in secret without fear or intimidation, freedom of expression and of the press, freedom of association (including of political parties) and freedom of movement.

II. TECHNICAL EVALUATION

10. It is unusual to conduct four simultaneous elections on the same day, particularly under the logistical and security constraints that exist in Bosnia and Herzegovina. However, observers reported that almost all polling stations throughout Bosnia and Herzegovina were run very well on 14 September. Observers reported that voting was conducted properly at 97 per cent of polling stations. Overall, the polling station committees conducted their work in a professional and impartial manner. The CIM pays tribute to the dedication and impartiality of polling station staff.

11. The CIM also places on record his recognition of the achievement of the OSCE election administration in ensuring the training of these staff and the correct provision of materials to polling stations which required a very difficult logistical exercise.

12. The CIM wishes however to place on record three major areas of the election process in which significant problems occurred.

A. Registration

13. The CIM has already expressed his serious reservations regarding the voter registration list in his statement of 9 August.

14. Problems with the registration process in the pre-election period resulted from manipulation of the voter registration process, which undoubtedly jeopardized the integrity of the list. In particular the pressure on displaced persons to vote in 'strategic municipalities' should be considered as a violation of the spirit of Dayton, and in some cases (as notably in Doboj) as unacceptable in any circumstances. However, the most severe effects of the manipulation were diffused with the postponement of municipal elections.

15. The establishment of a thoroughly revised and current voter register which instilled the necessary confidence that all qualified voters could vote once and only once would have greatly facilitated the integrity of the process.

16. Further problems with the registration of voters became clear on the day of elections. Thousands of people found themselves unable to vote because they were not entered on the final voters' list. This problem was made worse by the fact that the election regulations stated that the primary indicator for finding a voter on the register would be the ID number, but the voters' list itself was actually printed in order of date of birth.

B. Absentee polling stations

17. Throughout Bosnia and Herzegovina observers reported large crowds seeking to vote at absentee polling stations. While the security arrangements in ordinary polling stations were generally satisfactory, significant problems of crowd control and voter safety occurred at some absentee stations and polling had to be suspended for a period or extended. The total number of absentee polling stations was clearly insufficient. In addition, there were a number of cases where not enough ballot papers and materials were available in absentee stations.

C. Freedom of movement

18. Freedom of movement, and in particular access to polling by voters returning to vote in the area where they lived in 1991 or 1992 before the conflict and from which they have been displaced, has been a major issue of concern. This freedom of movement is a crucial and essential factor given the conflict solving nature of these elections. Article 8 of the Election Rules and Regulations states:

> "Every effort will be made by OSCE and the other international organizations concerned to facilitate the return of citizens to the municipality where they were registered in 1991 to vote in person."

19. On election day, despite elaborate planning, article 8 was not followed in practice. The climate had not been established in which these voters could cross the Inter-Entity Boundary Line (IEBL) without fear of intimidation or their personal safety. It was decided that the safety of voters crossing the IEBL could only be ensured by their travelling in buses along 19 designated routes regularly patrolled by security forces. Voters choosing not to ride in these buses were informed that their safety could not be guaranteed.

20. Only a limited number of voters crossed the IEBL on the day. The question must be raised as to why this was the case. While it is difficult to establish the exact reasons, the primary factor appears to have been an increase in the fear of voters since they took the decision to vote in this way (rather than as absentee voters) when registering in July. Other possible factors could include a lessening of interest after the postponement of the municipal elections, lack of information about the transportation arrangements and the realization that

voters would not be allowed to visit the homes in which they resided before the conflict. The small number of voters who crossed the IEBL is an indicator that the Dayton principle of freedom of movement has not been met, and thus points to a disintegrative trend.

III. ISSUES PRIOR TO POLLING DAY

A. Out-of-country voting

21. The out-of-country voting required significant logistical preparations, which were not assisted by the various delays in their commencement. The out-of-country voting was observed in 23 countries by 65 observers.

22. This effort was coordinated by Michael Meadowcroft. His report to the CIM shows that there were some problems, the most significant of which were the issue of wrong ballots, confusion surrounding Form II and the postponement of municipal voting, lack of information on the balloting process and about the candidates and competing parties, postal delays and errors in the packing and delivery of envelopes.

23. These problems were particularly evident in the Federal Republic of Yugoslavia. However, despite these problems, the overall conclusion of the observers is that the out-of-country voting worked reasonably well and was free of any significant manipulation.

B. The campaign

24. The observation findings during the campaign reflect an inconsistent and geographically divergent picture of the environment in which the campaign and political debate have taken place. In some areas events took place that seriously impeded the right to campaign: examples of employment-related intimidation, organized violence towards party activists and disruption of party meetings were all substantiated. In other areas, a meaningful campaign took place in which parties were able to convey their message to the electorate in a relatively peaceful environment, particularly in the last two weeks of the campaign. In most areas, considerable improvements became evident in the run-up to the elections. In particular, rallies took place in a more open atmosphere.

25. The CIM was very concerned that the theme of the election campaign on the part of some parties and candidates ran contrary to the spirit of Dayton. The systematic delivery of secessionist messages during the campaign in the Republika Srpska was one of the strongest elements of the campaign of the Serbian Democratic Party (SDS), and of other parties in the Republika Srpska, during the pre-electoral period. In fact, these statements form a heavy mortgage on the functioning of the governing structures of Bosnia and Herzegovina, and may therefore threaten the constitutional arrangements in Dayton and the spirit of 7.9 of the Copenhagen commitments. The Election Appeals Subcommission has reviewed several cases, including SDS statements during the election campaign.

26. It is clear that the participation of certain parties throughout the campaign, especially the SDS, has not been made in the spirit of Dayton. The CIM requests the Head of the OSCE Mission, as Chairman of the Provisional Election Commission (PEC), to verify before certification that all necessary (legal) steps have been taken to ensure that the sovereignty and territorial integrity of Bosnia and Herzegovina is upheld.

27. The CIM is concerned that essentially separate campaigns with very different messages and debates took place in the two entities. Although the amount of active campaigning that took place across the IEBL was very limited, those parties which did campaign across the Line for a multi-ethnic, open and democratic society deserve our admiration.

C. The media

28. The OSCE Copenhagen commitments call for unimpeded access to the media on a non-discriminatory basis. A democratic election process is founded upon the electorate being able to make informed choices.

29. The media should be evaluated by its degree of independence in informing the electorate about the candidates and the issues. Concern arises from the fact that the official media was influenced by the existing power structures. This problem was most serious in the Republika Srpska and the Croat-controlled parts of the Federation. The existence of independent networks in some areas allowed to some extent for an alternative to the official, authority-influenced media.

30. As a result of obstruction on the part of authorities, TVIN did not have a significant impact on the campaign: it only went on the air one week before polling day. However, Free Elections Radio Network (FERN) sponsored by the Government of Switzerland did contribute to the campaign debate after initial difficulties with broadcasting in Republika Srpska.

31. Despite serious concerns regarding access to the media, television and radio became somewhat more accessible to parties and independent candidates during the latter stages of the campaign. However, the establishment of an independent regulatory body, with the ability to impose sanctions, is of crucial importance for future elections to be meaningful.

IV. COUNT AND APPEALS PROCESS

32. The CIM continues to monitor the counting process and the hearing of all complaints and appeals, which are both essential and integral parts of the complete election process. The CIM will elaborate on his observations in his final report.

V. CONCLUSION

33. This is a preliminary report. It indicates that the elections technically went well, subject to the satisfactory completion of the count and the appeals process. However, the general climate in which the elections took place was in some cases below the minimum standards of the OSCE Copenhagen commitments.

34. The CIM believes that these elections are at best a first step out of the period of deep and violent conflict towards the aspiration of a democratic future for Bosnia and Herzegovina. The process of establishing freedom and democracy in Bosnia and Herzegovina, and political institutions that can uphold these principles, will be a long and arduous process. Nonetheless, a large number of citizens of Bosnia and Herzegovina turned out on 14 September to cast a ballot for their future, and many did so under very difficult circumstances.

35. Even in the context of a conflict-resolution election, the CIM notes his concern that significant elements of the climate of the pre-election period may point towards disintegration and an unsatisfactory resolution of the conflict. The problems associated with the campaign, freedom of movement and other issues referred to above should not be understated. But given these shortcomings, there was no pattern of recurring infractions or organizational incompetence that seriously compromised election day.

36. The CIM emphasizes that these elections, although characterized by imperfections, took place in such a way that they provide a first and cautious step for the democratic functioning of the governing structures of Bosnia and Herzegovina. A true and continuing commitment to the democratic process will need to be made in order for Bosnia and Herzegovina to face the difficult times and decisions that still lie ahead.

37. It is the view of the CIM that the international community, having started its support for this process, should face up to the longer-term responsibility of helping to see it through. In this context, the CIM would like to draw attention to OSCE commitment 7.9, which requires that candidates who obtain the necessary number of votes required by law are duly installed in office.

38. The CIM anticipates that this statement will be fully considered before the municipal elections take place. Until the problems affecting the integrity of the elections have been addressed and solved, these elections should not be held.

39. In conclusion, the CIM expresses his strong hope that the democratic institutions elected on 14 September will take root and grow, and that the next elections in two years' time will take place under much more favourable conditions.

ENCLOSURE

Document of the Second Meeting of the Conference on the Human Dimension of the Conference on Security and Cooperation in Europe, Copenhagen, 1990

Paragraphs 7 and 8 read as follows:

"7. To ensure that the will of the people serves as the basis of the authority of government, the participating States will:

"(a) Hold free elections at reasonable intervals, as established by law;

"(b) Permit all seats in at least one chamber of the national legislature to be freely contested in a popular vote;

"(c) Guarantee universal and equal suffrage to adult citizens;

"(d) Ensure that votes are cast by secret ballot or by equivalent free voting procedure and that they are counted and reported honestly with the official results made public;

"(e) Respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination;

"(f) Respect the right of individuals and groups to establish, in full freedom, their own political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities;

"(g) Ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution;

"(h) Provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process;

"(i) Ensure that candidates who obtain the necessary number of votes required by law are duly installed in office and are permitted to remain in office until their term expires or is otherwise brought to an end in a manner that is regulated by law in conformity with democratic parliamentary and constitutional procedures.

"8. The participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place. They therefore invite observers from any other of the Conference on Security and Cooperation in Europe participating States and any appropriate private institutions and organizations who may wish to do so to observe the course of their national election proceedings, to the extent permitted by law. They will also endeavour to facilitate similar access for election proceedings held below the national level. Such observers will undertake not to interfere in the electoral proceedings."

ATTACHMENT II

Second statement dated 24 September 1996 by the Coordinator for International Monitoring on the elections in Bosnia and Herzegovina

1. It was indicated in the preliminary statement issued by the CIM on 16 September that the election day went technically well, but that the general climate in which the elections took place was in some cases below the minimum standards of the OSCE Copenhagen Commitments. The problems associated with registration, the media, the campaign, and freedom of movement were assessed as serious shortcomings to the overall process, though there was no pattern of recurring infractions or organizational incompetence that seriously compromised election day. The CIM emphasized that the elections, although characterized by imperfections, took place in such a way that they provide a first and cautious step for the democratic functioning of the governing structures of Bosnia and Herzegovina. In this context, however, the report drew special attention to the functioning of the common institutions and the need to ensure before certification the strict adherence to the constitutional arrangements agreed in Dayton and the spirit of 7.9 of the Copenhagen Commitments, requiring that candidates who obtain the necessary number of votes required by law are duly installed in office, and are permitted to remain in office until their term expires.

2. This second statement of the CIM is based on further analysis of more than 4,000 forms and reports on election day, handed in by the long- and short-term observers, and the preliminary observations of approximately 60 observers covering the counting and appeals process, which are both essential and integral parts of the complete election cycle.

3. The analysis confirms and substantiates the basis for all the preliminary conclusions, made in the statement of the CIM on 16 September.

4. The CIM holds that the complex counting process is characterized by slowness, confusion, imperfections and serious problems in some individual cases. At this stage, the CIM's view is that these imperfections and irregularities are not of sufficient magnitude to affect the overall outcome of the elections.

5. The CIM wishes to elaborate upon his preliminary statement, make some preliminary observations of the counting and appeals process, and formulate some recommendations for the municipal elections.

I. ELECTION DAY

6. On the basis of all observation forms received from nearly all opstinas, the figure of 97 per cent of polling stations where the voting process was conducted properly, is confirmed. The evaluation and conclusions of the CIM for election day are therefore substantiated on the basis of a more representative

sample. A final statistical analysis of the observations on election day, including a regional profile, can be found in enclosure II.

7. The over 4,000 reports confirm that there were significant difficulties with the voters' list and an insufficient number of absentee polling stations. Displaced persons and refugees in particular were confronted with the problems reported on election day.

8. This can be illustrated with the following observations. The insufficient number of absentee polling stations caused in some areas long queues, confusion and additional crowd control problems. Voters crossing the Inter-Entity Boundary Line (IEBL) in buses did not have access to the local election committees and could not resolve the difficulties with the final voters' lists. The Electoral Appeals Subcommission concludes that, although these violations were not of a scale to affect the results of any of the 14 September elections, they would, it repeated, very likely affect the municipal elections.

9. The CIM therefore recommends that these deficiencies be remedied before the municipal elections as a matter of urgency.

10. The CIM also reiterates his observation that Article 8 of the Provisional Election Commission (PEC) Rules and Regulations was not followed in practice. a/ Observers confirmed the extremely limited number of voters crossing the IEBL, which cast a shadow over a voting day without major incidents.

11. In preparation of the municipal elections all necessary efforts will have to be made by the authorities, OSCE and the other international organizations concerned to facilitate the return of citizens to the municipality where they were registered in 1991 to vote in person. This includes adequate international presence and security guarantees, and the generation of a climate in which the voters can cross the IEBL without fear of intimidation of their personal safety. Only under these circumstances can the municipal elections be held successfully.

12. The preliminary statement of the CIM referred to some possible reasons for the lack of movement across the IEBL on election day. The CIM concludes that whatever the motivations might have been, the Dayton principle of freedom of movement was only met to a limited degree.

II. THE COUNTING PROCESS

13. The counting process was observed by approximately 60 observers and long-term staff members. The observers report that the counting process was carried out properly in the majority of counting centres, where procedures were followed in a secure manner, and figures for results were recorded accurately. These positive observations are in part overshadowed by reports of several problems and serious irregularities in some counting centres.

14. The CIM is concerned with the decision to publicly announce provisional results at an early moment. This seemed more inspired by extra-electoral reasons than by the respect for proper procedures. Moreover, the reconciliation

process is characterized by delays and confusion, and this easily jeopardizes the public credibility of the counting process.

15. Observers have reported a substantial amount of minor problems, related to the slowness of the counting process (especially in the Republika Srpska, owing to counting interruption on Sunday) and confusion in the warehouse (especially in the earlier stages) and the tabulation centre.

16. A relatively limited number of reports indicated that sufficient security arrangements were lacking and that some counting centre staff were not adequately trained.

17. Serious violations were reported in a number of cases. In Velika Kladusa, Mrkonjic Grad and Koton Vares ballots cast for opposition parties were spoiled. Violations in a polling station in Kozluk and in one of the military voting stations were so severe that the Election Appeals Subcommission (EASC) recommend that the results from these polling stations be annulled. Such cases illustrate the lack of democratic spirit in some parts of the country.

18. The CIM is concerned with the serious nature of these irregularities and the relatively high number of invalid ballots. While it is difficult to establish all the exact reasons, lack of voter education, political motivations (especially of those who voted across the IEBL), and sometimes deliberate spoiling of valid ballots seem to have played a role.

19. The CIM also remains concerned with a potential counting problem related to the voting register. In his first statement, the CIM referred to the urgent need for the establishment of a thoroughly revised and current voter register, which instils the necessary confidence that all qualified voters could vote once and only once. The theoretical possibility of double voting by refugees could have had consequences for the integrity of the count especially in lower-level elections if specific cases can be substantiated. No reports of this type of irregularity were reported to the CIM. However, the CIM is not in a position to exclude the possibility of double voting completely. The CIM recognizes the decision on this matter by the EASC.

20. The CIM reiterates his recommendation for a revised voter register in order to exclude any suspicion of double voting in the future.

III. THE APPEALS PROCESS

21. A considerable amount of count-related complaints and appeals are adjudicated by the EASC.

22. The CIM has reviewed the count-related appeals to the EASC and overall supports the judgements made. The CIM underlines the importance of the rulings on the freedom of movement and the double voting issues as already referred to, and stresses the need to respect the important implications of the rulings for the timing of the municipal elections.

23. Before election day, the EASC issued 54 decisions, of which 2 were interim judgements, and 7 advisory opinions. Sixty-four per cent of the submitted complaints/appeals were dismissed/denied by the EASC. The number of cases related to the campaign was the largest, nine of which were related to violence. The number of registration-related cases was also substantial. The EASC rulings confirm the critical analysis by the CIM regarding these elements of the electoral process.

24. The CIM evaluates positively the transparent and relatively simple EASC procedures for lodging complaints, and recommends greater emphasis on voter education regarding these procedures for the municipal elections.

25. The CIM considers that the appeals mechanism to be installed for future elections in Bosnia and Herzegovina could gain further credibility by strengthening its activities in terms of scope and effectiveness in ensuring the respect of electoral rules and regulations and by ensuring a larger degree of autonomy from other bodies responsible for the organization of the elections, including the election commission.

IV. OBSERVATION OF RESULTS

26. The CIM evaluated the context of these elections critically in his first statement. Fear and need for security were the driving factors in the pre-electoral period. The people of Bosnia and Herzegovina have thus far had limited opportunities to think and act freely and differently, to travel and associate without fear, to hear and reflect upon different points of view.

27. The democratic nature of multi-party elections is related to the extent to which a multitude of viewpoints is expressed in the newly elected bodies. Pluralism is the essence of democracy. The amount of pluralism during the electoral cycle was less than could be expected under a system of proportional representation. Pluralism includes a serious role for opposition parties, which may never be marginalized.

28. The further development of Bosnia and Herzegovina in terms of conflict resolution and democracy building will have to ensure that the very thin space available at present for tolerance of all viewpoints is widened and extended to all governing bodies of Bosnia and Herzegovina.

V. CONSTITUTIONAL ARRANGEMENTS AGREED IN DAYTON AND COPENHAGEN COMMITMENT 7.9

29. The CIM reiterates his concern that the conduct of certain parties, particularly the SDS, throughout the campaign, has not been made in the spirit of Dayton.

30. The two entities of Bosnia and Herzegovina are bound by the constitutional arrangements agreed to in Dayton. These arrangements include the sovereignty and territorial integrity of Bosnia and Herzegovina. However, the bodies to be elected from the Republika Srpska are also functioning in the framework of the

constitution of the Republika Srpska. In the political campaign context described above, and taking into account the arduous process of adaptation of the Republika Srpska Constitution, certification of the elections and instalment office of elected persons (Copenhagen commitment 7.9) can logically only take place if the Constitution of the Republika Srpska is adapted. This adaptation should correspond to all the clauses related to the respect for the sovereignty and territorial integrity of Bosnia and Herzegovina agreed to in Dayton. The preparation of the aftermath of the elections is a prerequisite for the successful outcome of the elections itself and thus requires much more attention, as is illustrated by the recent problems regarding the preparation of the meeting of the three members of the Presidency of Bosnia and Herzegovina.

31. In that context, the CIM reiterates his request to the Head of the OSCE Mission, as Chairman of the PEC, to address this issue before certification.

VI. MUNICIPAL ELECTIONS

32. The CIM underlines that elections do not involve only one day and are not held for their own sake. They are part of a long-term process, which aims at reconciliation and a democratic society as stipulated in the Dayton Peace Agreement. In order to achieve those goals, the elections must be perceived by the people of Bosnia and Herzegovina as part of a wider process of genuine democratic change, involving rule of law and the construction of civil society.

33. The municipal elections will be the next test. The date of these elections should be dependent on the fulfilment of the basic technical and political criteria and conditions, mentioned in the different statements of the CIM, laid out in the Dayton Agreement and specified in the decision of the PEC to postpone the municipal elections. A good preparation cannot and should not happen overnight. The necessary conditions cannot be met in this calendar year.

34. All long-term observers of the office of the CIM, without exception, have reported that the situation on the ground does not allow for municipal elections to be held in November.

35. The CIM has already underlined the need for a thorough and structural re-evaluation of the registration process. Furthermore, it is essential that an updated voters' list is produced, and a climate is generated in which the voters feel confident and secure to cross the IEBL. This requires a commitment from all the political actors in Bosnia and Herzegovina, as well as maximum security guarantees and presence of the international community for a substantial tir to come.

36. At this stage, no clarity exists as to the Copenhagen commitment 7.9 with regard to the municipal elections. The CIM considers it not acceptable that municipal elections are organized under these circumstances in which neither de facto nor de jure instalment of elected representatives in office can be assured.

37. Municipal elections should be preceded by a comprehensive and independent voter education programme, covering both urban and rural areas and informing the

electorate of their political rights and explaining the election procedures. Furthermore, it is essential that lessons learned from the experience of the Mostar and 14 September elections are taken into account.

38. The elements mentioned above must be taken into account in order for the upcoming municipal elections to be a positive step in the political and democratic development of Bosnia and Herzegovina.

Notes

a/ Article 8. Every effort will be made by OSCE and the other organizations concerned to facilitate the return of citizens to the municipality where they were registered in 1991 to vote in person.